

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION**

ADDENDUM TO FINAL STATEMENT OF REASONS

Subject Matter of Regulations: Workers' Compensation – Return to Work

**TITLE 8, CALIFORNIA CODE OF REGULATIONS
Sections 10004, 10005, 10133.53 and 10133.55**

In addition to the changes and responses to comments set forth in the final statement of reasons, the Acting Administrative Director of the Division of Workers' Compensation sets forth the following:

**THE FOLLOWING SECTION WAS AMENDED FOLLOWING THE
SUBMISSION OF THE RULEMAKING BINDER TO THE OFFICE OF
ADMINISTRATIVE:**

Modifications to Section 10005

**Request for Reimbursement of
Accommodation Expenses for Injuries
Occurring on or after July 1, 2004 – Form
DWC AD 10005**

The words “attach treating physician’s QME or AME report” have been changed to “attach documentation regarding the need for accommodation.” This non substantive change was made so as not to conflict with the Labor Code section 3762 (c), which prohibits claims administrators from disclosing medical information to employers except the diagnosis or information required to allow the employer to modify the employer’s work duties. Because insurers are prohibited from providing the employers with the medical reports, the employers would not have been able to comply with the requirement on the form. Instead, they will be able to attach the diagnosis summary or other information that they have received regarding the need for the accommodation.

**ADDITIONAL SUMMARY OF COMMENTS RECEIVED AND RESPONSES
THERE TO CONCERNING THE REGULATIONS ADOPTED**

In response to the comments received stating the proof of service on the forms should also allow for hand delivery: Form 10133.53 is prepared by the claims administrator and served within 30 days of the termination of temporary disability. The claims administrator is not located at the work site and prior to being offered modified or alternative work, the employee is unlikely to be at the job site. The division is unaware of any claims administrators whose general business practice is to personally serve these notices and generally, claims administrators mail the other benefit notices listed at 8 CCR sections 9812 et seq. It is expected that this form will be included with other notices

being sent to the injured worker. Form 10133.55 already required a proof of service by mail. The section is only amended to correct the zip code. This form is also being sent by either the claims administrator, who is not at the job site, to the injured worker; or by the injured worker to the claims administrator.